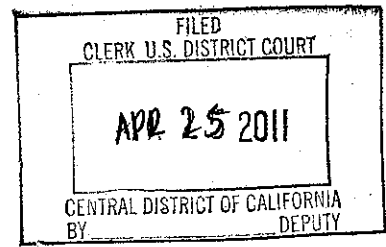


PLEASE CONFORM

1 JEFFER MANGELS BUTLER & MITCHELL LLP  
2 MARTIN H. ORLICK (Bar No. 083908)  
3 LOUISE ANN FERNANDEZ (Bar No. 86263)  
4 AN NGUYEN RUDA (Bar No. 215453)  
5 1900 Avenue of the Stars, Seventh Floor  
6 Los Angeles, California 90067-4308  
7 Telephone: (310) 203-8080  
8 Facsimile: (310) 203-0567



9 Attorneys for Defendant Bath & Body Works, LLC

10 UNITED STATES DISTRICT COURT  
11 CENTRAL DISTRICT OF CALIFORNIA

12 NORMA ROTHMAN, individually, and  
13 on behalf of all others similarly situated

14 Plaintiff,

15 v.

16 BATH AND BODY WORKS, LLC, a  
17 Delaware limited liability company, and  
18 Does 1-500,

19 Defendant.

CASE NO.

**CV11-03516**DDDP(PJWX)  
**DEFENDANT BATH & BODY  
WORKS, LLC'S NOTICE OF  
REMOVAL TO FEDERAL COURT**

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Butler & Mitchell LLP



1                   **TO PLAINTIFF NORMA ROTHMAN, HER ATTORNEYS, AND**  
 2                   **THE ABOVE-CAPTIONED COURT:**

3                   PLEASE TAKE NOTICE that Defendant Bath & Body Works, LLC  
 4 ("BBW") removes the above-captioned action from the Superior Court of the State of  
 5 California for the County of Los Angeles, where the action is now pending, to the  
 6 United States District Court for the Central District of California. This civil action is  
 7 removed on the basis of diversity jurisdiction under sections 1332, 1441, and 1453 of  
 8 title 28 of the United States Code. For the reasons set forth below, this Court has  
 9 subject matter jurisdiction under the Class Action Fairness Act of 2005 ("CAFA"),  
 10 codified in part at sections 1332 and 1453 of title 28 of the United States Code.

11                   **PROCEDURAL HISTORY AND TIMELINESS OF REMOVAL**

12               1.       On or about March 16, 2011, Plaintiff Norma Rothman commenced a  
 13 civil action in the Superior Court of the State of California for the County of Los  
 14 Angeles, entitled *Norma Rothman, individually, and on behalf of all others similarly*  
 15 *situated v. Bath and Body Works, LLC, a Delaware limited liability company, and*  
 16 *Does 1-500*, Case No. BC457472, by filing a complaint.

17               2.       The Complaint, which is styled as a class action, alleges three causes of  
 18 action, including two for alleged violations of the Song-Beverly Credit Card Act of  
 19 1971, codified at California Civil Code section 1747.08 and one for alleged violations  
 20 of Business and Professions Code section 17200. Compl., ¶¶ 21-33. Plaintiff's  
 21 complaint arises from a purported credit card purchase transaction at a BBW store,  
 22 whose location is not disclosed in the Complaint. *See* Compl., ¶22.

23               3.       On March 25, 2011, BBW was served with the summons, complaint, and  
 24 supporting documents, all of which are attached. Specifically, a true and correct copy  
 25 of the summons is attached as **Exhibit A**. A true and correct copy of the Complaint  
 26 is attached as **Exhibit B**. A true and correct copy of all other accompanying  
 27 documents is attached hereto as **Exhibit C**. A true and correct copy of the "Service  
 28 of Process Transmittal" from CT Corporation, BBW's agent for service of process in

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1 California, indicating a service date of March 25, 2011 is attached as **Exhibit D**.

2 4. This Notice of Removal is timely because BBW filed it within thirty  
3 days of when Plaintiff served it with the summons and complaint. 28 U.S.C. §  
4 1446(b).

5 5. BBW will give Plaintiff written notice as required under section 1446(b)  
6 of title 28 of the United States Code by serving Plaintiff, through her counsel of  
7 record, with this Notice of Removal and all documents filed in support thereof and  
8 concurrently herewith on the date of filing of this Notice of Removal.

### 9 SUBJECT MATTER JURISDICTION

10 6. Under CAFA, a district court shall have original jurisdiction over any  
11 civil action styled as a class action in which: (1) the number of members of the  
12 proposed plaintiff class is not less than one hundred, in the aggregate; (2) "the matter  
13 in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and  
14 costs;" and (3) "any member of a class of plaintiffs is a citizen of a State different  
15 from any defendant." 28 U.S.C. §§ 1332(d)(2) & (d)(5). If a state court putative class  
16 action meets all of these three requirements, it may be removed to federal court. 28  
17 U.S.C. § 1441(a) ("[A]ny civil action brought in a State Court of which the district  
18 courts of the United States have original jurisdiction, may be removed by the  
19 defendant . . ."). This action meets each of CAFA's requirements.

### 20 THE PROPOSED CLASS DOES NOT HAVE LESS THAN 100 MEMBERS

21 7. Plaintiff seeks to certify a class consisting of:

22 All persons who engaged in a credit card transaction during  
23 the last four years at one of Defendants' retail stores located  
24 in the State of California, and who was requested or  
25 required to provide personal identification information at  
the time of the credit card transaction (hereinafter, the  
"Class").

26 Compl., ¶ 12.

27 8. Plaintiff alleges that the putative class exceeds 1,000 members. Compl.,  
28 ¶13. Without conceding liability or certifiability, BBW admits that its California

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1 stores have processed credit card transactions for more than 1,000 customers for the  
2 one year preceding the filing of the Complaint.

3 9. Accordingly, the number of putative class members required for removal  
4 under CAFA are met.

5 **THE AMOUNT IN CONTROVERSY EXCEEDS \$5 MILLION**

6 10. Plaintiff's cause of action for alleged violations of section 1747.08 of  
7 the California Civil Code carries a one-year statute of limitations under section 340 of  
8 the California Code of Civil Procedure Code. *TJX Cos., Inc. v. Superior Court*, 163  
9 Cal. App. 4th 80, 83 (2008).<sup>1</sup>

10 11. Plaintiff's complaint does not plead a specific amount of damages. As  
11 such, removal is proper if BBW establishes by a preponderance of evidence that  
12 Plaintiff demands in excess of \$5 million in damages the aggregate for herself and the  
13 putative class. *Abrego v. Dow Chemical Co.*, 443 F.3d 676, 683 (9th Cir. 2006) (per  
14 curiam) ("Where the complaint does not specify the amount of damages sought, the  
15 removing defendant must prove by a preponderance of the evidence that the amount  
16 in controversy requirement has been met,"); *see also Deehan v. Amerigas Partners*,  
17 *L.P.*, No. 08 CV 1009, 2008 WL 4104475, at \*2 (S.D. Cal. Sept. 2, 2008) ("The issue  
18 is the amount Plaintiff has placed in controversy, not the amount that Defendant will  
19 actually be held liable for."). This burden of proof "is not daunting, as courts  
20 recognize that . . . a removing defendant is not obligated to research, state, and prove  
21 the Plaintiff's claims for damages." *Korn v. Polo Ralph Lauren Corp.*, 536 F. Supp.  
22 2d 1199, 1204-05 (E.D. Cal. 2008) (emphasis in original; internal quotation marks  
23 removed). Indeed, "[w]here a statutory maximum is specified, courts may consider  
24 the maximum statutory penalty available in determining whether the jurisdictional  
25 amount in controversy requirement is met." *Id.* at 1205; *accord Deehan*, 2008 WL

26  
27 <sup>1</sup> This Notice of Removal does not address the statute of limitations for the Bus.  
28 & Prof. Code section 17200 cause of action, as Plaintiff has stated that this claim will  
be dismissed in a forthcoming First Amended Complaint.



1 4104475, at \*2.

2 12. Plaintiff contends that BBW violated California Civil Code section  
3 1747.08 by requesting and recording personal identification information from each  
4 person that used a credit card to purchase items from BBW stores in California during  
5 the year preceding the filing of the Complaint. (Compl., ¶¶12, 15.) Plaintiff's cause  
6 of action for alleged violations of California Civil Code section 1747.08 carries a  
7 maximum statutory penalty of \$1,000 per violation. Cal. Civ. Code § 1747.08(e).  
8 Plaintiff alleges entitlement to civil penalties for herself and for each class member.  
9 Compl., Prayer for Relief, 2.

10 13. Plaintiff also seeks an award of "attorneys' fees and costs as allowed by  
11 law according to proof." Compl., Prayer for Relief, ¶ 5.

12 14. Without conceding liability, appropriateness of class treatment,  
13 Plaintiff's class definition, or the validity of Plaintiff's claim for relief (namely, a  
14 statutory violation or that Plaintiff and putative class members are entitled to recover  
15 civil penalties up to the statutory maximum of \$1,000 for each for the alleged  
16 violations of California Civil Code section 1747.08), the amount alleged by Plaintiff  
17 to be "in controversy" in this action exceeds \$5 million. From March 16, 2010 to  
18 March 16, 2011, there were far in excess of 5,001 credit card purchase transactions at  
19 BBW owned retail stores in California. Declaration of Charles S. Webber ("Webber  
20 Decl."), ¶ 6. In fact, there were approximately 2,530,119 credit card purchase  
21 transactions at BBW owned retail stores in California. Webber Decl., ¶ 6.  
22 Multiplying the statutory maximum penalty of \$1,000 per transaction to the number  
23 of transactions, BBW is far in excess of the CAFA's amount in controversy  
24 minimum.

25 15. Accordingly, BBW satisfies CAFA's second requirement that the amount  
26 in controversy exceed \$5 million. *See Korn*, 536 F. Supp. 2d at 1206 (holding that in  
27 actions alleging violations of California Civil Code section 1747.08, "in order to  
28 demonstrate that the amount in controversy meets the CAFA's jurisdictional

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1 requirement, defendant need only demonstrate that there are at least 5,001 putative  
2 class claims") (italics in original).

3 16. Additionally, the potential total amount of an attorneys' fee award should  
4 also be considered when calculating the amount in controversy under CAFA.  
5 *Lowdermilk v. U.S. Bank Nat'l Ass'n*, 479 F.3d 994, 1000 ("We have held that  
6 attorneys' fees were properly included in the amount in controversy in a class  
7 action."); *see also Tompkins v. Basic Research LLC*, No. CIV, S 08-244, 2008 WL  
8 1808316, at \*4 & n.9 (E.D. Cal. April 22, 2008) (including 25% of common fund for  
9 attorneys' fees when calculating amount in controversy). Plaintiff's request for  
10 attorneys' fees in conjunction with the statutory penalty takes the amount in  
11 controversy far over the CAFA statutory threshold. *See* 28 U.S.C. § 1332(d)(2).

12 17. BBW therefore satisfies CAFA's second requirement that the amount in  
13 controversy exceed \$5 million. 28 U.S.C. § 1332(d)(2) & (d)(6).

14 **THE PARTIES ARE CITIZENS OF DIFFERENT STATES**

15 18. BBW is informed and believes, and thereon alleges, Plaintiff is and at all  
16 relevant times was a citizen of California. *See* Compl., ¶4.

17 19. BBW is a Delaware limited liability company, and its principal place of  
18 business and headquarters is Reynoldsburg, Ohio. *See* Webber Decl., ¶3; *see also*  
19 Compl., caption ("Bath and Body Works, LLC a Delaware limited liability  
20 Company") and ¶5 ("Defendant, Bath and Body Works, LLC...is and at all time  
21 mentioned herein was a Delaware limited liability company....with its corporate  
22 headquarters located at 7 Limited Parkway, Reynolds [sic], OH 43068").

23 20. Accordingly, BBW is a citizen of Ohio and/or Delaware for purposes of  
24 diversity. *See Hertz Corp. v. Friend*, 559 U.S. ----, 130 S. Ct. 1181, 1192 (2010)  
25 (holding that a corporation's principal place of business is "the place where a  
26 corporation's officers direct, control, and coordinate the corporation's activities" and  
27 "the place where the corporation maintains its headquarters"); *see also Carijano v.*  
28 *Occidental Petroleum Corp.*, 626 F.3d 1137, 1151 fn.3 (9th Cir. 2010) (applying the

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1 *Hertz* test to determine defendant's principal place of business).

2 21. The citizenship of unnamed "Doe" defendants sued under fictitious  
3 names is disregarded for purposes of removal. 28 U.S.C. § 1441(a).

4 22. Moreover, some of the class members are necessarily citizens of  
5 California and not citizens of the state in which BBW is a citizen, namely, Ohio  
6 and/or Delaware as Plaintiff's complaint is based on point of sale credit card  
7 transactions at retail stores located in California. Compl., ¶ 11.

8 23. Consequently, minimum diversity is satisfied under section  
9 1332(d)(2)(A) of title 28 of the United States Code.

10 **VENUE IS PROPER**

11 24. Removal to this judicial district and division is proper under sections  
12 1441(a) and 1446(a) of title 28 of the United States Code because the state court  
13 action was originally pending in this judicial district—namely, the Superior Court of  
14 the State of California for the County of Los Angeles.

15 **NOTICE TO THE SUPERIOR COURT OF LOS ANGELES COUNTY**

16 25. Contemporaneously with the filing of this Notice of Removal, BBW is  
17 filing a true and correct copy of this Notice of Removal and all documents filed in  
18 support thereof and concurrently therewith with the clerk of the Superior Court of the  
19 State of California for the County of Los Angeles, under section 1446(d) of title 28 of  
20 the United States Code.

21 WHEREFORE, Defendant hereby gives notice that the above action pending in  
22 the Superior Court of the State of California for the County of Los Angeles is hereby  
23 removed in its entirety to this Court.



1 DATED: April 25, 2011

JEFFER MANGELS BUTLER & MITCHELL LLP  
MARTIN H. ORLICK  
LOUISE ANN FERNANDEZ  
AN NGUYEN RUDA

2  
3  
4  
5 By: 

AN NGUYEN RUDA

Attorneys for Defendant Bath and Body Works, LLC

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**EXHIBIT A**



3/25 @ 2:15pm

**SUMMONS**  
**(CITACION JUDICIAL)**

SUM-100

**NOTICE TO DEFENDANT:**  
**(AVISO AL DEMANDADO):**

BATH AND BODY WORKS, LLC a Delaware limited liability company, and DOES 1 – 500,

**YOU ARE BEING SUED BY PLAINTIFF:****(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

NORMA ROTHMAN, individually, and on behalf of all others similarly situated,

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)  
**CONFORMED COPY**  
**OF ORIGINAL FILED**  
Los Angeles Superior Court

MAR 16 2011

John A. Clarke, Executive Officer/Clerk  
By DOROTHY SWAIN Deputy**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le queda más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos extendidos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es): Los Angeles Superior Court  
111 N. Hill Street, Los Angeles, CA 90012

CASE NUMBER:  
(Número del caso):

BC457472

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Caleb LH Marker, Esq. (SBN 269721) 555 E. 9th St., Ste. 500, Long Beach, CA 90802 (562) 216-7380

DATE: MAR 16 2011  
(Fecha)Clerk, by  
(Secretario)Deputy  
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

**NOTICE TO THE PERSON SERVED: You are served**

1. ☐ as an individual defendant.  
2. ☐ as the person sued under the fictitious name of (specify):

3. ☒ on behalf of (specify): Bath and Body Works, LLC  
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)  
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)  
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)  
☒ other (specify): a Delaware limited liability  
4. ☐ by personal delivery on (date): Company







**EXHIBIT B**



RIDOUT & LYON, LLP  
 CHRISTOPHER P. RIDOUT (State Bar No. 143931)  
 Email: c.ridout@ridoutlyonlaw.com  
 DEVON M. LYON (State Bar No. 218293)  
 Email: d.lyon@ridoutlyonlaw.com  
 CALEB LH MARKER (State Bar No. 269721)  
 Email: c.marker@ridoutlyonlaw.com  
 555 E. Ocean Blvd., Ste. 500  
 Long Beach, California 90802  
 (562) 216-7380  
 (562) 216-7385 Fax

CONFORMED COPY  
 OF ORIGINAL FILED  
 Los Angeles Superior Court

MAR 16 2011

John A. Stacks, Executive Officer/Clerk  
 By *[Signature]* Deputy  
 DOROTHY SWAIN

Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 COUNTY OF LOS ANGELES CENTRAL DIVISION

NORMA ROTHMAN, individually, and on  
 behalf of all others similarly situated,

Plaintiff,

v.

BATH AND BODY WORKS, LLC a Delaware  
 limited liability company, and DOES 1 – 500,  
 Defendants.

Case No.:

BC457472

Assigned for all purposes to:

COMPLAINT (CLASS ACTION)

For Violation Of:

1. California Civil Code § 1747.08 (Violation);
2. California Civil Code § 1747.08 (Injunctive Relief); and
3. Violation of Business and Professions Code § 17200

(Jury Trial Demanded)

Plaintiff, Norma Rothman, brings this action by and through her undersigned counsel, on behalf of herself and all others similarly situated, based on information and belief and the investigation of counsel, except for information based on personal knowledge, hereby alleges as follows:

I. NATURE OF ACTION

1. This lawsuit is a class action brought by Plaintiff pursuant to Code of Civil Procedure §382 against Defendants for violation of California Civil Code § 1747.08 (the "Song-Beverly Credit Card Act"). Specifically, Plaintiff alleges that Defendants request and/or require its

COMPLAINT

1



1 customers to provide personal identification information when they complete a transaction using  
2 their credit card, in violation of the Song-Beverly Credit Card Act.

### 3 II. JURISDICTION AND VENUE

4 2. This Court has jurisdiction over the violations of the California Civil Code  
5 complained of herein.

6 3. Venue is appropriate in this Court as a substantial part of the events and conduct  
7 giving rise to the claims this action occurred in this county and certain Defendants reside in,  
8 transact business with class members in, and maintain a principal place of business in this county.

### 9 III. PARTIES

10 4. Plaintiff, Norma Rothman ("Plaintiff"), is and was at all times herein mentioned an  
11 adult over the age of 21 years and residing in the County of Los Angeles, State of California.

12 5. Defendant, Bath and Body Works, LLC ("Defendant") is and at all times mentioned  
13 herein was a Delaware limited liability company doing business in the State of California, with its  
14 corporate headquarters located at 7 Limited Parkway, Reynolds, OH 43068. Defendant's agent for  
15 service of process is CT Corporation System located at 818 W. 7<sup>th</sup> Street, Los Angeles, CA 90017.

16 6. Defendant, together with its subsidiaries, operates a chain of retail stores.  
17 Defendant's stores sell a selection of fragrance products, including but not limited to bath and  
18 shower, lotions and creams, personal fragrance, lip products, skincare and treatment, aromatherapy  
19 and hand soaps. Defendants boast that their products combine traditional spa treatments with  
20 botanical and natural ingredients to develop a collection of advanced, easy-to-use personal care  
21 products with proven effectiveness.

22 7. Plaintiff is ignorant of the true names and capacities of defendants sued herein as  
23 DOES 1 through 500, inclusive, and each of them, and therefore sues said defendants by such  
24 fictitious names. Plaintiff will amend this complaint to allege the true names and capacities of said  
25 defendants when ascertained. Plaintiff is informed and believes, and based thereon alleges that  
26 each of said fictitiously named defendants acted intentionally, negligently, and/or recklessly or is  
27 responsible in some manner for the occurrences herein alleged, and that each of the violations of  
28 Plaintiff's rights as herein alleged were proximately and legally caused by said defendants' actions.



8. Plaintiff is informed and believes, and based thereon alleges that all of the defendants identified herein, whether identified by name or by fictitious name, were and are the agents, servants, and employees of each of the remaining defendants, and that in doing the things alleged herein were acting within the purpose, course and scope of said agency, service, and/or employment and with the permission, consent, authorization, and subsequent ratification of each of the remaining defendants.

9. Plaintiff is informed and believes, and based thereon alleges that Defendants, and each of them, agreed to, cooperated with, aided, abetted, encouraged, ratified, and/or adopted the acts, actions, wrongdoing, and representations of each of the remaining Defendants herein.

#### IV. CLASS ACTION ALLEGATIONS

10. This action is brought as a class action pursuant to Code of Civil Procedure §382 and any other applicable laws or rules of civil procedure. In addition to statutory damages for Class Members, this action seeks recovery of economic damages, restitution, injunctive and equitable relief arising from Defendants' credit card practices, such as the disgorgement and recovery monies paid to Defendants by marketing companies.

11. **Class Definition:** The Class sought to be represented in this action as it relates to the is defined as follows:

All persons who engaged in a credit card transaction during the last four (4) years at one of Defendants' retail stores located in the State of California, and who was requested or required to provide personal identification information at the time of the credit card transaction (hereinafter, the "Class").

The Class Period dates back four years (or the length of the longest applicable statute of limitations for any claim asserted) from the date this action was commenced and continues through the present and the date of judgment. Excluded from the Class are: (a) any officers, directors or employees of the Defendants; (b) any judge assigned to hear this case (or spouse or



1 family member of any assigned judge); (c) any employee of the Court; (d) any juror selected to  
 2 hear this case.

3 12. The Class includes persons who:

- 4 a. have been requested, or required as a condition to the acceptance of the  
 5 credit card as payment in full or in part for goods or services, to write  
 6 personal identification information (as defined in California Civil Code  
 7 section 1747.08) upon the credit card transaction form or otherwise; and/or  
 8 b. have been requested, or required as a condition to the acceptance of the  
 9 credit card as payment in full or in part for goods or services, to provide  
 10 personal identification information (as defined in California Civil Code  
 11 section 1747.08), which the person, firm, partnership, association, or  
 12 corporation accepting the credit card has written, caused to be written, or  
 13 otherwise recorded upon the credit card transaction form or otherwise;  
 14 and/or  
 15 c. have been subject to Defendant's utilization of a credit card form which  
 16 contained preprinted spaces specifically designated for filling in personal  
 17 identification information (as defined in California Civil Code section  
 18 1747.08).

19 13. **Numerosity of the Class.** Members of the class are so numerous that their  
 20 individual joinder herein is impracticable. The precise number of members of the class  
 21 and their addresses are presently unknown to Plaintiff, but is believed to exceed 1,000  
 22 people. Defendants operate numerous retail stores in the State of California, with each  
 23 store serving hundreds of customers per day. The precise number of persons in the class  
 24 and their identities and addresses may be ascertained from defendants' records. If  
 25 deemed necessary by the Court, members of the class may be notified of the pendency  
 26 of this action by mail, supplemented by published notice.

27 14. **Ascertainable Class.** The proposed Class is ascertainable. The litigation of the  
 28 questions of fact and law involved in this action will resolve the rights of all members of the



Class and hence, will have binding effect on all class members. These Class Members can be readily identified from point-of-sale computer files of the Defendants and other means readily available to the Defendants, and thus the Plaintiff, through minimally intrusive discovery. The class is numerous. Joinder of all class members is impracticable due to both a reluctance of class members to sue Defendants and the relatively small monetary recovery for each class member in comparison to the costs associated with separate litigation.

15. **Common Questions of Fact and Law Exist and Predominate over Individual Issues.** There is a well-defined community of interest in the questions of law and fact involved affecting the parties to be represented. These common questions of law and fact exist as to all members of the class and predominate over the questions affecting only individual members of the class. These common legal and factual questions include without limitation:

- a. Whether Defendants conduct in requesting and/or requiring personal identification information from their customers violates California Civil Code § 1747.08; and
- b. Whether Defendants conduct in providing credit card forms that contain preprinted spaces for filling in personal identification information violates California Civil Code § 1747.08.

16. **Typicality.** The claims of Plaintiff are typical of the claims of the Class. Plaintiff and all Class Members engaged in a credit card transaction at one of Defendant's California retail locations. Plaintiff and all Class Members were requested and/or required to provide personal identification information in violation of California law.

17. **Adequacy.** Plaintiff is an adequate representative of the Class on whose behalf this action is prosecuted. Plaintiff's interests do not conflict with the interests of the Class. Plaintiff has retained competent counsel with experience in class action litigation and will prosecute this action vigorously. As a result, Plaintiff can fairly and adequately represent and protect the interests of the class in that there are no conflicts between



1 their interests and the interests of other class members, this action is not collusive, the named  
2 Plaintiff and her counsel have the necessary resources to litigate this action, and counsel has the  
3 experience and ability required to prosecute this case as a class action.

4       **18. Community of Interest.** The proposed Class has a well defined community of  
5 interest in the questions of fact and law to be litigated. The common questions of law and fact are  
6 predominant with respect to the liability issues, relief issues and anticipated affirmative defenses.  
7 The named Plaintiff has claims typical of the class members. There is a well-defined community  
8 of interest in the questions of law and fact involved affecting the plaintiff class in that the claims  
9 of all such class members relate to and arise out of a common scheme and practice utilized by  
10 Defendants in credit card transactions by which said Defendants (1) request and/or require  
11 personal identification information from their customers, and/or (2) use credit card forms which  
12 contain preprinted spaces for filling in personal identification information, all in violation of  
13 California Civil Code section 1747.08.

14       **19. Superiority of Class Adjudication.** The certification of a class in this action is  
15 superior to the litigation of a multitude of cases by members of the putative class. Class  
16 adjudication will conserve judicial resources and will avoid the possibility of inconsistent rulings.  
17 Equity dictates that all persons who stand to benefit from the relief sought herein should be  
18 subject to the lawsuit and hence subject to an order spreading the costs of the litigation among the  
19 class members in relationship to the benefits received. The statutory damages, restitution and  
20 other potential recovery for each individual member of the class are modest, relative to  
21 the substantial burden and expense of individual prosecution of these claims. Given the  
22 amount of the individual class members' claims, few, if any, class members could afford  
23 to seek legal redress individually for the wrongs complained of herein. Even if the  
24 members of the class themselves could afford individual litigation, the court system  
25 could not. Individualized litigation presents a potential for inconsistent or contradictory  
26 judgments. Individualized litigation increases the delay and expense to all parties and the  
27 court system presented by the complex legal and factual issues of the case. By contrast,  
28 the class action device presents far fewer management difficulties, and provides the



benefits of single adjudication, economy of scale, and comprehensive supervision by a single court.

20. In the alternative, the above-referenced class may be certified because:

- a. The prosecution of separate actions by the individual members of the class would create a risk of inconsistent or varying adjudication with respect to individual class members' claims which would establish incompatible standards of conduct for defendants;
- b. The prosecution of separate actions by individual members of the class would create a risk of adjudications which would as a practical matter be dispositive of the interests of other members of the class who are not parties to the adjudications, or which would substantially impair or impede the ability of other class members to protect their interests; and,
- c. Defendants have acted or refused to act on grounds generally applicable to the class, thereby making appropriate final and injunctive relief with respect to the class.

#### **V. FIRST CAUSE OF ACTION**

#### **VIOLATION OF CALIFORNIA CIVIL CODE SECTION 1747.08**

#### **(Against All Defendants)**

21. Plaintiff hereby incorporates all of the preceding paragraphs by reference as if fully set forth herein.

22. During the Class Period, Plaintiff has purchased certain items from Defendants by means of a credit card transaction. At the time of said purchases, Defendants requested and/or required Plaintiff to provide her ZIP code, which Defendants recorded as a part of processing the credit card transaction. As a result, Plaintiff provided personal identification information to Defendants and Plaintiff is informed and believes said Defendants recorded said information in their computer and information systems all in violation of California Civil Code section 1747.08.



1           23. In the course of accepting credit card payments from Plaintiff and all those similarly  
 2 situated, Defendants have employed a pattern, scheme, practice and/or policy relative to processing  
 3 purchases whereby Defendants have requested and/or required that purchasers provide personal  
 4 information to Defendants as part of the processing of the credit card transactions. Plaintiff is  
 5 informed and believes and based thereon alleges that Defendants have then caused all the personal  
 6 identification information to be otherwise recorded in Defendants' computer and information  
 7 systems.

8           24. California Civil Code section 1747.08(e) provides that any person who violates its  
 9 provisions shall be subject to a civil penalty not to exceed two hundred fifty dollars (\$250.00) for  
 10 the first violation and one thousand dollars (\$1,000.00) for each subsequent violation. Accordingly,  
 11 Plaintiff seeks an award to be determined at time of trial in compliance with said provisions.

12           25. Plaintiff has incurred and, during the pendency of this action, will incur expenses  
 13 for attorney's fees and costs herein. Among other things, Plaintiff is informed and believes, and  
 14 based thereon alleges, that this action will result in the enforcement of an important right affecting  
 15 the public interest, that a significant benefit will be conferred thereby upon the general public  
 16 and/or a large class of persons, that the necessity and financial burden of private enforcement are  
 17 such as to make a recovery of said fees and costs appropriate, and such fees should in the interests  
 18 of justice be paid by Defendants. Said attorney's fees and costs are necessary for the prosecution of  
 19 this action and will result in a benefit for each of the members of the class. Plaintiff will seek to  
 20 recover said attorneys' fees and costs according to proof at the time of trial herein pursuant to law,  
 21 including, but not limited to, the provisions of Code of Civil Procedure section 1021.5 and  
 22 otherwise.

### 23                                   **VL SECOND CAUSE OF ACTION**

#### 24                   **INJUNCTIVE RELIEF FOR VIOLATION OF CAL. CIVIL CODE § 1747.08**

25                                   **(Against All Defendants)**

26           26. Plaintiff hereby incorporates all of the preceding paragraphs by reference as if fully  
 27 set forth herein.  
 28



1           27. Plaintiff is informed and believes, and based thereon alleges, that Defendants'  
2 violations of California Civil Code section 1747.08 are continuing. There is no plain, speedy and/or  
3 effective remedy available to Plaintiff to bring said violations to an end.

4           28. Plaintiff therefore requests that the court enter a preliminary injunction, to be  
5 followed by a permanent injunction, barring Defendants, and/or anyone acting in concert therewith,  
6 from doing any of the following:

- 7           a. Utilizing any credit card form (printed, electronic or otherwise) with any  
8 space(s) specifically designated for filling in any personal identification  
9 information of the cardholder, specifically including the cardholder's address  
10 and/or telephone number; and/or,  
11           b. Requesting, and/or requiring as a condition to accepting credit cards as  
12 payment in full or in part for any goods and/or services, that any credit  
13 cardholder provide any personal identification information, specifically  
14 including the cardholder's address and/or telephone number; and/or,  
15           c. Writing or otherwise recording, and/or causing to be written and/or  
16 otherwise recorded in any form, any personal identification information,  
17 specifically including, but not limited to, any credit cardholder's address  
18 and/or telephone number, while processing any credit card transaction.

19           29. Plaintiff has incurred and, during the pendency of this action, will incur expenses  
20 for attorney's fees and costs herein. Among other things, Plaintiff is informed and believes, and  
21 based thereon alleges, that this action will result in the enforcement of an important right affecting  
22 the public interest, that a significant benefit will be conferred thereby upon the general public  
23 and/or a large class of persons, that the necessity and financial burden of private enforcement are  
24 such as to make a recovery of said fees and costs appropriate, and such fees should in the interests  
25 of justice be paid by Defendants. Said attorneys' fees and costs are necessary for the prosecution of  
26 this action and will result in a benefit for each of the members of the class. Plaintiff will seek to  
27 recover said attorney's fees and costs according to proof at the time of trial herein pursuant to law,  
28



1 including, but not limited to, the provisions of Code of Civil Procedure section 1021.5 and  
 2 otherwise.

3 **VII. THIRD CAUSE OF ACTION**

4 **VIOLATION OF BUSINESS AND PROFESSIONS CODE §17200, ET SEQ.**

5 **(Against All Defendants)**

6 30. Plaintiff fully incorporates by reference herein all of the above paragraphs, as  
 7 though fully set forth herein.

8 31. Defendants, and each of them, have engaged in unlawful business acts and  
 9 practices. Such acts and practices constitute unfair business practices in violation of Business and  
 10 Professions Code §§17200 *et seq.* (the "UCL")

11 32. In particular, defendants, and each of them, have engaged in unlawful business  
 12 acts which include:

- 13 a. Defendants' conduct in requesting and/or requiring personal  
 14 identification information from their customers in violation of California  
 15 Civil Code § 1747.08; and
- 16 b. Defendants' conduct in providing credit card forms that contain  
 17 preprinted spaces for filling in personal identification information in  
 18 violation of California Civil Code § 1747.08.

19 33. As a direct and proximate result of the Defendants' above-described unfair,  
 20 unlawful and fraudulent business practices, Defendants have violated the UCL causing class  
 21 members to be injured, suffer harm, and incur the loss of money. Specifically, Plaintiff are  
 22 entitled to the value and/or residual value of the personal identification information wrongfully  
 23 obtained by Defendants, including any monies obtained through the sale, barter, or exchange of  
 24 Plaintiff and the Class' personal identification information to third-party list brokers and/or any  
 25 other entity. Plaintiff seeks restitution, disgorgement of ill-gotten gains, attorneys' fees, and all  
 26 other remedies permitted by law.

27 ///

28 ///



1       **WHEREFORE**, Plaintiff prays judgment against Defendants, and each of them, as  
 2 follows:

- 3       1. For a Court order certifying that the action may be maintained as a class action;
- 4       2. As to the First Cause of Action, for an award of a statutory penalty pursuant to  
 5 California Civil Code § 1747.08(e) for Plaintiff and for each person similarly situated for each  
 6 violation of Civil Code section 1747.08 in an amount to be determined by the trier-of-fact at trial;
- 7       3. As to the Second Cause of Action, for a preliminary injunction, followed by a  
 8 permanent injunction, barring Defendants, and/or anyone acting in concert therewith, from doing  
 9 any of the following:
  - 10       a. Utilizing any credit card form (printed, electronic or otherwise) with any  
 11 space(s) specifically designated for filling in any personal identification  
 12 information of the cardholder, specifically including the cardholder's  
 13 address and/or telephone number; and/or,
  - 14       b. Requesting, and/or requiring as a condition to accepting credit cards as  
 15 payment in full or in part for any goods and/or services, that any credit  
 16 cardholder provide any personal identification information, specifically  
 17 including the cardholder's address and/or telephone number; and/or,
  - 18       c. Writing or otherwise recording, and/or causing to be written and/or  
 19 otherwise recorded in any form, any personal identification information,  
 20 specifically including, but not limited to, any credit cardholder's address  
 21 and/or telephone number, while processing any credit card transaction;

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///



- 1           4.     For restitution of property;
- 2           5.     For reasonable attorneys' fees and costs as allowed by law according to proof;
- 3           6.     For any and all such other and further relief as the Court may deem just and
- 4 proper.

Respectfully submitted,

RIDOUT & LYON, LLP

7     Dated: March 15, 2011

By:

Christopher P. Ridout, CA Bar No. 143931  
Devon M. Lyon, CA Bar No. 218293  
Caleb LH Marker, CA Bar No. 269721  
555 E. Ocean Boulevard, Suite 500  
Long Beach, CA 90802  
(562) 216-7380 Telephone  
(562) 216-7385 Fax

Attorneys for Plaintiffs



Exhibit C.



**EXHIBIT C**



CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Caleb LH Marker, Esq. (SBN 269721) <b>RIDOUT &amp; LYON, LLP</b> 555 E. Ocean Blvd., Ste. 500 Long Beach, CA 90802 TELEPHONE NO.: (562) 216-7380 FAX NO.: (562) 216-7385 ATTORNEY FOR (Name): Plaintiff		FOR COURT USE ONLY  <b>CONFORMED COPY OF ORIGINAL FILED</b> Los Angeles Superior Court  <b>MAR 16 2011</b>  John A. Clarke, Executive Officer/Clerk By <i>[Signature]</i> Deputy <b>DOROTHY SWAIN</b>  CASE NUMBER: <b>BC457472</b>  JUDGE: DEPT:
SUPERIOR COURT OF CALIFORNIA, COUNTY OF <b>Los Angeles</b> STREET ADDRESS: <b>111 N. Hill Street</b> MAILING ADDRESS: CITY AND ZIP CODE: <b>Los Angeles, CA 90012</b> BRANCH NAME: <b>Stanley Mosk Courthouse</b>		
CASE NAME: <b>Rothman v. Bath and Body Works, LLC</b>		
<b>CIVIL CASE COVER SHEET</b> <input checked="" type="checkbox"/> <b>Unlimited</b> (Amount demanded exceeds \$25,000) <input type="checkbox"/> <b>Limited</b> (Amount demanded is \$25,000 or less) <b>Complex Case Designation</b> <input type="checkbox"/> <b>Counter</b> <input type="checkbox"/> <b>Joinder</b> Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		

(Items 1-6 below must be completed (see instructions on page 2).)

1. Check one box below for the case type that best describes this case:
- |   |  |   |
|---|--|---|
| <b>Auto Tort</b><br><input type="checkbox"/> Auto (22)<br><input type="checkbox"/> Uninsured motorist (46)<br><b>Other PIP/DWD (Personal Injury/Property Damage/Wrongful Death) Tort</b><br><input type="checkbox"/> Asbestos (04)<br><input type="checkbox"/> Product liability (24)<br><input type="checkbox"/> Medical malpractice (45)<br><input type="checkbox"/> Other PIP/DWD (23)<br><b>Non-PIP/DWD (Other) Tort</b><br><input checked="" type="checkbox"/> Business tort/unfair business practice (07)<br><input type="checkbox"/> Civil rights (08)<br><input type="checkbox"/> Defamation (13)<br><input type="checkbox"/> Fraud (18)<br><input type="checkbox"/> Intellectual property (19)<br><input type="checkbox"/> Professional negligence (25)<br><input type="checkbox"/> Other non-PIP/DWD tort (35)<br><b>Employment</b><br><input type="checkbox"/> Wrongful termination (36)<br><input type="checkbox"/> Other employment (15) | <b>Contract</b><br><input type="checkbox"/> Breach of contract/warranty (06)<br><input type="checkbox"/> Rule 3.740 collections (09)<br><input type="checkbox"/> Other collections (09)<br><input type="checkbox"/> Insurance coverage (18)<br><input type="checkbox"/> Other contract (37)<br><b>Real Property</b><br><input type="checkbox"/> Eminent domain/inverse condemnation (14)<br><input type="checkbox"/> Wrongful eviction (33)<br><input type="checkbox"/> Other real property (26)<br><b>Unlawful Detainer</b><br><input type="checkbox"/> Commercial (31)<br><input type="checkbox"/> Residential (32)<br><input type="checkbox"/> Drugs (38)<br><b>Judicial Review</b><br><input type="checkbox"/> Asset forfeiture (05)<br><input type="checkbox"/> Petition re: arbitration award (11)<br><input type="checkbox"/> Writ of mandate (02)<br><input type="checkbox"/> Other judicial review (39) | <b>Provisionally Complex Civil Litigation</b><br>(Cal. Rules of Court, rules 3.400-3.403)<br><input type="checkbox"/> Antitrust/Trade regulation (03)<br><input type="checkbox"/> Construction defect (10)<br><input type="checkbox"/> Mass tort (40)<br><input type="checkbox"/> Securities litigation (28)<br><input type="checkbox"/> Environmental/Toxic tort (30)<br><input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)<br><b>Enforcement of Judgment</b><br><input type="checkbox"/> Enforcement of judgment (20)<br><b>Miscellaneous Civil Complaint</b><br><input type="checkbox"/> RICO (27)<br><input type="checkbox"/> Other complaint (not specified above) (42)<br><b>Miscellaneous Civil Petition</b><br><input type="checkbox"/> Partnership and corporate governance (21)<br><input type="checkbox"/> Other petition (not specified above) (43) |
|---|--|---|
2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- |  |  |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties   | d. <input type="checkbox"/> Large number of witnesses  |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence   | f. <input type="checkbox"/> Substantial postjudgment judicial supervision  |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary, declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): **Three**
5. This case ☒ is ☐ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: **March 15, 2011**  
 Caleb LH Marker, Esq.

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Form Adopted for Mandatory Use  
 Judicial Council of California  
 CM-010 [Rev. July 1, 2007]

**CIVIL CASE COVER SHEET**

Cal. Rules of Court, rules 2.30, 3.220, 3.400-3.403, 3.740  
 Cal. Standards of Judicial Administration, Std. 3.10  
 www.courtinfo.ca.gov



CM-010

## INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

**To Plaintiffs and Others Filing First Papers.** If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

**To Parties in Rule 3.740 Collections Cases.** A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

**To Parties in Complex Cases:** In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

## CASE TYPES AND EXAMPLES

<b>Auto Tort</b> Auto (22)—Personal Injury/Property Damage/Wrongful Death Uninsured Motorist (46) <i>(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)</i> <b>Other PIPD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b> Asbestos (04) Asbestos Property Damage Asbestos Personal Injury/Wrongful Death Product Liability <i>(not asbestos or toxic/environmental)</i> (24) Medical Malpractice (45) Medical Malpractice—Physicians & Surgeons Other Professional Health Care Malpractice Other PIPD/WD (23) Premises Liability (e.g., slip and fall) Intentional Bodily Injury/PIPD/WD (e.g., assault, vandalism) Intentional Infliction of Emotional Distress Negligent Infliction of Emotional Distress Other PIPD/WD <b>Non-PIPD/WD (Other) Tort</b> Business Tort/Unfair Business Practice (07) Civil Rights (e.g., discrimination, false arrest) <i>(not civil harassment)</i> (08) Defamation (e.g., slander, libel) (13) Fraud (16) Intellectual Property (19) Professional Negligence (25) Legal Malpractice Other Professional Malpractice <i>(not medical or legal)</i> Other Non-PIPD/WD Tort (35) <b>Employment</b> Wrongful Termination (36) Other Employment (15)	<b>Contract</b> Breach of Contract/Warranty (06) Breach of Rental/Lease Contract <i>(not unlawful detainer or wrongful eviction)</i> Contract/Warranty Breach—Seller Plaintiff <i>(not fraud or negligence)</i> Negligent Breach of Contract/Warranty Other Breach of Contract/Warranty Collections (e.g., money owed, open book accounts) (09) Collection Case—Seller Plaintiff Other Promissory Note/Collections Case Insurance Coverage <i>(not provisionally complex)</i> (18) Auto Subrogation Other Coverage Other Contract (37) Contractual Fraud Other Contract Dispute <b>Real Property</b> Eminent Domain/Inverse Condemnation (14) Wrongful Eviction (33) Other Real Property (e.g., quiet title) (26) Writ of Possession of Real Property Mortgage Foreclosure Quiet Title Other Real Property <i>(not eminent domain, landlord/tenant, or foreclosure)</i> Unlawful Detainer Commercial (31) Residential (32) Drugs (38) <i>(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)</i> <b>Judicial Review</b> Asset Forfeiture (05) Petition Re: Arbitration Award (11) Writ of Mandate (02) Writ—Administrative Mandamus Writ—Mandamus on Limited Court Case Matter Writ—Other Limited Court Case Review Other Judicial Review (39) Review of Health Officer Order Notice of Appeal—Labor Commissioner Appeals	<b>Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)</b> Antitrust/Trade Regulation (03) Construction Defect (10) Claims Involving Mass Tort (40) Securities Litigation (28) Environmental/Toxic Tort (30) Insurance Coverage Claims <i>(arising from provisionally complex case type listed above)</i> (41) <b>Enforcement of Judgment</b> Enforcement of Judgment (20) Abstract of Judgment (Out of County) Confession of Judgment <i>(non-domestic relations)</i> Sister State Judgment Administrative Agency Award <i>(not unpaid taxes)</i> Petition/Certification of Entry of Judgment on Unpaid Taxes Other Enforcement of Judgment Case <b>Miscellaneous Civil Complaint</b> RICO (27) Other Complaint <i>(not specified above)</i> (42) Declaratory Relief Only Injunctive Relief Only <i>(non-harassment)</i> Mechanics Lien Other Commercial Complaint Case <i>(non-tort/non-complex)</i> Other Civil Complaint <i>(non-tort/non-complex)</i> <b>Miscellaneous Civil Petition</b> Partnership and Corporate Governance (21) Other Petition <i>(not specified above)</i> (43) Civil Harassment Workplace Violence Elder/Dependent Adult Abuse Election Contest Petition for Name Change Petition for Relief From Late Claim Other Civil Petition
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CM-010 (Rev. July 1, 2007)

CIVIL CASE COVER SHEET

Page 2 of 2



SHORT TITLE: Rothman v. Bath and Body Works, LLC	CASE NUMBER BC457472
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**CIVIL CASE COVER SHEET ADDENDUM AND STATEMENT OF LOCATION  
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to LASC Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court.

Item I. Check the types of hearing and fill in the estimated length of hearing expected for this case:

JURY TRIAL? ☒ YES CLASS ACTION? ☒ YES LIMITED CASE? ☐ YES TIME ESTIMATED FOR TRIAL 5-7 ☐ HOURS/ ☒ DAYS

Item II. Select the correct district and courthouse location (4 steps - If you checked "Limited Case", skip to Item III, Pg. 4):

**Step 1:** After first completing the Civil Case Cover Sheet Form, find the main civil case cover sheet heading for your case in the left margin below, and, to the right in Column A, the Civil Case Cover Sheet case type you selected.

**Step 2:** Check one Superior Court type of action in Column B below which best describes the nature of this case.

**Step 3:** In Column C, circle the reason for the court location choice that applies to the type of action you have checked. For any exception to the court location, see Los Angeles Superior Court Local Rule 2.0.

**Applicable Reasons for Choosing Courthouse Location (see Column C below)**

- |   |  |
|---|--|
| 1. Class Actions must be filed in the County Courthouse, Central District.      | 6. Location of property or permanently garaged vehicle.    |
| 2. May be filed in Central (Other county, or no Bodily Injury/Property Damage). | 7. Location where petitioner resides.                      |
| 3. Location where cause of action arose.  | 8. Location wherein defendant/respondent functions wholly. |
| 4. Location where bodily injury, death or damage occurred.                      | 9. Location where one or more of the parties reside.       |
| 5. Location where performance required or defendant resides.                    | 10. Location of Labor Commissioner Office.                 |

**Step 4:** Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
	Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death - Uninsured Motorist	1., 2., 4.
Other Personal Injury/Property Damage/Wrongful Death Tort	Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage <input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	2. 2.
	Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons <input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1., 2., 4. 1., 2., 4.
	Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall)	1., 2., 4.
		<input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.)	1., 2., 4.
<input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress		1., 2., 3.	
<input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death		1., 2., 4.	
Non-Personal Injury/Property Damage/Wrongful Death Tort	Business Tort (07)	<input checked="" type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1., 2., 3.
	Civil Rights (08)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1., 2., 3.
	Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1., 2., 3.
	Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1., 2., 3.



Non-Personal Injury/Property Damage/  
Wrongful Death Tort (Cont'd.)

Employment

Contract

Real Property

Judicial Review Unlawful Detainer

SHORT TITLE Rothman v. Bath and Body Works, LLC	CASE NUMBER
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A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons -See Step 3 Above
Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice <input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1., 2., 3. 1., 2., 3.
Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	2,3.
Wrongful Termination (36)	<input type="checkbox"/> A6037 Wrongful Termination	1., 2., 3.
Other Employment- (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case <input type="checkbox"/> A6109 Labor Commissioner Appeals	1., 2., 3. 10.
Breach of Contract/ Warranty (08) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not Unlawful Detainer or wrongful eviction) <input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence) <input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud) <input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	2., 5. 2., 5. 1., 2., 5. 1., 2., 5.
Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff <input type="checkbox"/> A6012 Other Promissory Note/Collections Case	2., 5., 6. 2., 5.
Insurance Coverage (18)	<input type="checkbox"/> A6016 Insurance Coverage (not complex)	1., 2., 5., 8.
Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud <input type="checkbox"/> A6031 Tortious Interference <input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1., 2., 3., 5. 1., 2., 3., 5. 1., 2., 3., 8.
Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels _____	2.
Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2., 6.
Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure <input type="checkbox"/> A6032 Quiet Title <input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2., 6. 2., 6. 2., 6.
Unlawful Detainer- Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer- Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer- Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2., 6.
Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2., 6.
Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2., 5.

LACIV 109 (Rev. 01/07)  
LASC Approved 03-04CIVIL CASE COVER SHEET ADDENDUM  
AND STATEMENT OF LOCATIONLASC, rule 2.0  
Page 2 of 4



SHORT TITLE Rothman v. Bath and Body Works, LLC	CASE NUMBER
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Judicial Review (Cont'd.)

Provisionally Complex Litigation

Enforcement of Judgment

Miscellaneous Civil Complaints

Miscellaneous Civil Petitions

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2., 8. 2. 2.
Other Judicial Review (38)	<input type="checkbox"/> A6150 Other Writ /Judicial Review	2., 8.
Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1., 2., 8.
Construction Defect (10)	<input type="checkbox"/> A6007 Construction defect	1., 2., 3.
Claims Involving Mass Tort (40)	<input type="checkbox"/> A6008 Claims Involving Mass Tort	1., 2., 8.
Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1., 2., 8.
Toxic Tort Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1., 2., 3., 8.
Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1., 2., 5., 8.
Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment <input type="checkbox"/> A6160 Abstract of Judgment <input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations) <input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes) <input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax <input type="checkbox"/> A6112 Other Enforcement of Judgment Case.	2., 9. 2., 8. 2., 9. 2., 8. 2., 8. 2., 8., 9.
RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1., 2., 8.
Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only <input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment) <input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex) <input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1., 2., 8. 2., 8. 1., 2., 8. 1., 2., 8.
Partnership Corporation Governance(21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2., 8.
Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment <input type="checkbox"/> A6123 Workplace Harassment <input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case <input type="checkbox"/> A6190 Election Contest <input type="checkbox"/> A6110 Petition for Change of Name <input type="checkbox"/> A6170 Petition for Relief from Late Claim Law <input type="checkbox"/> A6100 Other Civil Petition	2., 3., 9. 2., 3., 9. 2., 3., 9. 2. 2., 7. 2., 3., 4., 8. 2., 9.



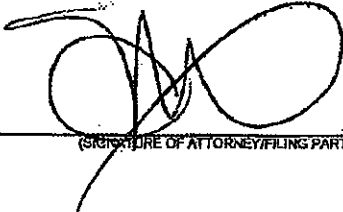
SHORT TITLE: Rothman v. Bath and Body Works, LLC	CASE NUMBER
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Item III. Statement of Location: Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., Step 3 on Page 1, as the proper reason for filing in the court location you selected.

REASON: CHECK THE NUMBER UNDER COLUMN C WHICH APPLIES IN THIS CASE <input type="checkbox"/> 1. <input type="checkbox"/> 2. <input checked="" type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10.		ADDRESS: 7362 Carson Blvd.
CITY: Long Beach	STATE: CA	ZIP CODE: 90808

Item IV. Declaration of Assignment: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the Stanley Mosk courthouse in the Central District of the Los Angeles Superior Court (Code Civ. Proc., § 392 et seq., and LASC Local Rule 2.0, subds. (b), (c) and (d)).

Dated: March 15, 2011

  
(SIGNATURE OF ATTORNEY/FILING PARTY)

**PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:**

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet form CM-010.
4. Complete Addendum to Civil Case Cover Sheet form LACIV 109 (Rev. 01/07), LASC Approved 03-04.
5. Payment in full of the filing fee, unless fees have been waived.
6. Signed order appointing the Guardian ad Litem, JC form FL-935, if the plaintiff or petitioner is a minor under 18 years of age, or if required by Court.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.



SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES  
NOTICE OF CASE ASSIGNMENT - UNLIMITED CIVIL CASE  
Case Number \_\_\_\_\_

**THIS FORM IS TO BE SERVED WITH THE SUMMONS AND COMPLAINT**

B-C457472

Your case is assigned for all purposes to the judicial officer indicated below (Local Rule 7.30). There is additional information on the reverse side of this form.

ASSIGNED JUDGE	DEPT	ROOM	ASSIGNED JUDGE	DEPT	ROOM
Hon. Carolyn B. Kuhl	1	534	Hon. Holly E. Keadig	42	416
Hon. J. Stephen Czuleger	3	224	Hon. Mel Red Recana	45	529
Hon. Luis A. Lavin	13	630	Hon. Debra Katz Weintraub	47	507
Hon. Terry A. Green	14	300	Hon. Elizabeth Allen White	48	506
Hon. Richard Frutin	15	307	Hon. Deirdre Hill	49	509
Hon. Rita Miller	16	306	Hon. John Shepard Wiley Jr.	50	508
Hon. Richard B. Rico	17	309	Hon. Abraham Khan	51	511
Hon. Rex Heeseman	19	311	Hon. Susan Bryant-Deason	52	510
Hon. Kevin C. Brazile	20	310	Hon. John P. Shook	53	513
Hon. Zaven V. Siunianian	23	315	Hon. Ernest M. Hiroshige	54	512
Hon. Robert L. Hess	24	314	Hon. Malcolm H. Mackey	55	515
Hon. Mary Ann Murphy	25	317	Hon. Michael Johnson	56	514
Hon. James R. Durin	26	316	Hon. Ralph W. Dan	57	517
Hon. Yvette M. Palazuelos	28	318	Hon. Rolf M. Treu	58	516
Hon. John A. Kronstadt	30	400	Hon. David L. Minning	61	632
Hon. Alan S. Rosenfield	31	407	Hon. Michael L. Stern	62	600
Hon. Mary H. Strobel	32	406	Hon. Kenneth R. Freeman	64	601
Hon. Charles F. Palmer	33	409	Hon. Mark Mooney	68	617
Hon. Amy D. Hogue	34	408	Hon. Ramona See	69	621
Hon. Daniel Buckley	35	411	Hon. Soussan G. Bruguera	71	729
Hon. Gregory Alarcon	36	410	Hon. Ruth Ann Kwan	72	731
Hon. Joanne O'Donnell	37	413	Hon. Teresa Sanchez-Gordon	74	735
Hon. Maureen Duffy-Lewis	38	412	Hon. William F. Fahey	78	730
Hon. Michael C. Solner	39	415	Hon. Emilie H. Elias*	324	CCW
Hon. Michelle R. Rosenblatt	40	414	other		
Hon. Ronald M. Sahagian	41	417			

**\*Class Actions**

All class actions are initially assigned to Judge Emilie H. Elias in Department 324 of the Central Civil West Courthouse (600 S. Commonwealth Ave., Los Angeles 900). This assignment is for the purpose of assessing whether or not the case is complex within the meaning of California Rules of Court, rule 3.400. Depending on the outcome of that assessment, the class action case may be reassigned to one of the judges of the Complex Litigation Program or reassigned randomly to a court in the Central District.

Given to the Plaintiff/Cross-Complainant/Attorney of Record on \_\_\_\_\_ JOHN A. CLARKE, Executive Officer/Clerk

LACIV CGH 190 (Rev. 04/10)  
LASC Approved 05-06

NOTICE OF CASE ASSIGNMENT -  
UNLIMITED CIVIL CASE

By \_\_\_\_\_, Deputy Clerk  
Page 1 of 2



**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES  
ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION PACKAGE**

[CRC 3.221 Information about Alternative Dispute Resolution]

For additional ADR information and forms, visit the Court ADR web application at [www.lasuperiorcourt.org](http://www.lasuperiorcourt.org) (click on ADR).

The plaintiff shall serve a copy of this Information Package on each defendant along with the complaint (Civil only).

**What is ADR:**

Alternative Dispute Resolution (ADR) is the term used to describe all the other options available for settling a dispute which once had to be settled in court. ADR processes, such as arbitration, mediation, neutral evaluation (NE), and settlement conferences, are less formal than a court process and provide opportunities for parties to reach an agreement using a problem-solving approach.

There are many different kinds of ADR. All of them utilize a "neutral", an impartial person, to decide the case or help the parties reach an agreement.

**Mediation:**

In mediation, a neutral person called a "mediator" helps the parties try to reach a mutually acceptable resolution of the dispute. The mediator does not decide the dispute but helps the parties communicate so they can try to settle the dispute themselves. Mediation leaves control of the outcome with the parties.

**Cases for Which Mediation May Be Appropriate**

Mediation may be particularly useful when parties have a dispute between or among family members, neighbors, or business partners. Mediation is also effective when emotions are getting in the way of resolution. An effective mediator can hear the parties out and help them communicate with each other in an effective and nondestructive manner.

**Cases for Which Mediation May Not Be Appropriate**

Mediation may not be effective if one of the parties is unwilling to cooperate or compromise. Mediation also may not be effective if one of the parties has a significant advantage in power over the other. Therefore, it may not be a good choice if the parties have a history of abuse or victimization.

**Arbitration:**

In arbitration, a neutral person called an "arbitrator" hears arguments and evidence from each side and then decides the outcome of the dispute. Arbitration is less formal than a trial, and the rules of evidence are often relaxed. Arbitration may be either "binding" or "nonbinding." *Binding arbitration* means that the parties waive their right to a trial and agree to accept the arbitrator's decision as final. *Nonbinding arbitration* means that the parties are free to request a trial if they do not accept the arbitrator's decision.

**Cases for Which Arbitration May Be Appropriate**

Arbitration is best for cases where the parties want another person to decide the outcome of their dispute for them but would like to avoid the formality, time, and expense of a trial. It may also be appropriate for complex matters where the parties want a decision-maker who has training or experience in the subject matter of the dispute.

**Cases for Which Arbitration May Not Be Appropriate**

If parties want to retain control over how their dispute is resolved, arbitration, particularly binding arbitration, is not appropriate. In binding arbitration, the parties generally cannot appeal the arbitrator's award, even if it is not supported by the evidence or the law. Even in nonbinding arbitration, if a party requests a trial and does not receive a more favorable result at trial than in arbitration, there may be penalties.

**Neutral Evaluation:**

In neutral evaluation, each party gets a chance to present the case to a neutral person called an "evaluator." The evaluator then gives an opinion on the strengths and weaknesses of each party's evidence and arguments and about how the dispute could be resolved. The evaluator is often an expert in the subject matter of the dispute. Although the evaluator's opinion is not binding, the parties typically use it as a basis for trying to negotiate a resolution of the dispute.

**Cases for Which Neutral Evaluation May Be Appropriate**

Neutral evaluation may be most appropriate in cases in which there are technical issues that require special expertise to resolve or the only significant issue in the case is the amount of damages.

**Cases for Which Neutral Evaluation May Not Be Appropriate**

Neutral evaluation may not be appropriate when there are significant personal or emotional barriers to resolving the dispute.

**Settlement Conferences:**

Settlement conferences may be either mandatory or voluntary. In both types of settlement conferences, the parties and their attorneys meet with a judge or a neutral person called a "settlement officer" to discuss possible settlement of their dispute. The judge or settlement officer does not make a decision in the case but assists the parties in evaluating the strengths and weaknesses of the case and in negotiating a settlement. Settlement conferences are appropriate in any case where settlement is an option. Mandatory settlement conferences are often held close to the date a case is set for trial.







**EXHIBIT D**



